

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY**

STATE OF DELAWARE,

V.

MICHAEL STATEN,

Defendant.

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I.D. No. 0508018142

Submitted: January 20, 2006

Decided: February 15, 2006

*Defendant's Motion to Suppress.*

*Denied.*

## OPINION

*Appearances:*

Diane C. Walsh, Esquire, Wilmington, Delaware.

Attorney for the State of Delaware.

Joseph W. Benson, Esquire, Wilmington, Delaware.

Attorney for Defendant Michael Staten.

**JOHN E. BABIARZ, JR., JUDGE**

Defendant Michael Staten, who is charged with various drug-related offenses, has moved to suppress all physical evidence seized pursuant to an allegedly faulty search warrant. The Court finds that Defendant has no standing to contest the search warrant for a Federal Express package which was neither addressed to him nor sent by him, and his motion to suppress is therefore denied.

### **FACTS**

In August 2005, the Wilmington Police Department received information that a package containing illegal drugs was to be delivered via Federal Express to a residence located at 8 Mallory Court, New Castle, Delaware. The police contacted the Fed Ex office in New Castle and asked to be notified if any packages arrived with the Mallory Court address. Two days later, the Fed Ex office reported having received a package addressed to Larry Kavantar at 8 Mallory Court, New Castle, Delaware 19720. The sender was listed as Karch D. Goodman with an address in Las Vegas, Nevada. The police went to the Fed Ex facility and used a drug-trained dog to sniff the 18-pound package, and the dog alerted for the presence of illegal drugs. The police obtained a search warrant to open the package, which contained four so-called “bricks” of cocaine, each of which weighed a little more than two pounds, for a total of more than eight pounds of cocaine.

The police repackaged the box and equipped it with an alarm that would activate when the box was opened. When Fed Ex attempted to make the delivery, no one answered the door, so the package was returned to the Fed Ex facility for pick-up. A police surveillance team observed a man later identified as Ricardo Croom picked up the package, while his companion, Defendant Michael Staten, waited at a different counter. The two men left the building together and met a third man outside. Police saw the three men leaving in two cars and followed them to a residence at 52 Freedom Trail, New Castle, Delaware. While waiting outside, the officers heard the hidden alarm go off, and they entered the house where the three men were standing in the living room with the box. After securing the residence and the vehicles, the police obtained a search warrant for the house and the two vehicles. All three men were arrested.

Defendant was indicted for Trafficking in Cocaine, Possession with Intent to Deliver Cocaine, Conspiracy 2<sup>nd</sup>, Use of a Dwelling, Use of a Vehicle and Possession of Ammunition During Commission of a Felony. Defendant has moved to suppress the evidence, and the parties submitted memoranda after a hearing.

## **ISSUES**

Defendant argues that the warrant to search the package was defective on its face and did not establish probable cause because the only two facts asserted were

that the police “received information” about a possible drug delivery and that the police dog “alerted” for the presence of drugs. Defendant argues that because the first search warrant was defective, the second search warrant, which was based on the results of the first search, was also illegally obtained and that its results must be suppressed. The State responds that Defendant Staten does not have standing to contest the search warrant or its results because the package was neither sent by him nor addressed to him.

## **DISCUSSION**

When ruling on a motion to suppress evidence, the Court must first determine whether the defendant has standing to contest the search or seizure. If he does not have standing, the inquiry ends, and the evidence will not be suppressed.<sup>1</sup> Standing determines access to the exclusionary remedy provided for illegal searches or seizures.

Standing is not a question of a property right but a question of whether the person has a legitimate expectation of privacy in the invaded place.<sup>2</sup> The contents of letter and packages are constitutionally protected.<sup>3</sup> Although the sender and the

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<sup>1</sup>*Hanna v. State*, 591 A.2d 158, 162 (Del. 1991).

<sup>2</sup>*Rakas v. Illinois*, 439 U.S. 128, 143 (1978).

<sup>3</sup>*State v. Miller*, 2001 WL 1486172 (Del. Super.) (citing *United States v. VanLeeuwen*, 397 U.S. 249 (1970)).

recipient of a package each have a legitimate expectation of privacy in a package's contents, a third person has no such interest.<sup>4</sup>

In the case at bar, the threshold question is whether Michael Staten had a reasonable expectation of privacy in the Fed Ex package sent by Karch D. Goodman and addressed to Larry Kavantar. Defendant asserts that he established standing through the testimony of Detective Paul Ciber, who stated that a co-defendant had told the police that Staten offered him \$1000 to pick up a package and that the co-defendant assumed that the package contained drugs.<sup>5</sup> This testimony has no bearing on the real issue. Defendant did not send the package, nor was he the recipient. These facts are determinative of the issue, and the Court concludes that Defendant had no reasonable expectation of privacy in the package and therefore has no standing to contest the search warrants or the admission of evidence thereby seized.

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<sup>4</sup>*United States v. Blankenship*, 69 Fed.Appx. 114, 115 (4<sup>th</sup> Cir. 2003), *cert. denied*, *Blankenship v. United States*, 540 U.S. 863 (2003).

<sup>5</sup>Transcript of Suppression Hearing (Dec. 21, 2005) at 5.

## CONCLUSION

For the reasons explained above, Defendant's motion to suppress the evidence pursuant to a search warrant is hereby *Denied*.

*It Is So ORDERED.*

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Judge John E. Babiarz, Jr.

JEB,jr/ram/bjw  
Original to Prothonotary